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INTRODUCTION

In accordance with the City Auditor's 1990-91 Audit Workplan, we have reviewed the San José Fire Department's Weed Abatement Program. We conducted this audit in accordance with generally accepted government auditing standards and limited our work to those areas specified in the Scope and Methodology section of this report.

BACKGROUND

The Weed Abatement Section of the San José Fire Department's Bureau of Fire Prevention is responsible for enforcing Chapter 9.12 of the San José Municipal Code and the weed abatement contract specifications approved by the City Council. Chapter 9.12 states that:

“Weeds or refuse may be declared a public nuisance and may be abated, and the cost and expense of such abatement may be collected...”

According to the San José Fire Department (SJFD) organization chart (see Appendix B), the functions of the Weed Abatement Section are to:

- Abate hazardous vegetation on vacant land;
- Inspect all complaints of hazardous vegetation;
- Ensure that all violations are brought into compliance.

The SJFD contracts with a private vendor (Contractor) to clear weeds on vacant land that owners do not clear themselves. The City attempts to recover the cost of the Weed Abatement Program (Program) by placing an assessment on the owner's property taxes. The charges that the City imposes on the property owners include the cost of the Contractor's work and administrative fees. The administrative fees are intended to cover the City's costs in administering the Program, as well as to encourage property owners to assume responsibility for the removal of weeds and rubbish on their vacant land.

During 1989-90, the SJFD listed approximately 1,400 parcels in the Program. Parcels remain in the Program until they are either developed or

landscaped. The SJFD inspects each parcel at least once a year. The Contractor clears weeds from approximately half of the parcels in the Program every year. Property owners clear the weeds from the remaining parcels. The SJFD also responds to an average of 200 complaints each year about parcels that are not in the Program.

The SJFD tracks its weed abatement list on the City's computer system. The weed abatement computer system stores the parcel numbers and square footages of properties in the Program. It calculates contractor charges and final assessments based on parcel size and generates a variety of reports. The system accesses the City's property owner database for current property owner names and addresses to print mailing notices.

The Annual Weed Abatement Calendar

The annual weed abatement calendar begins in September when the Council adopts the first in a series of weed abatement resolutions. The SJFD's Weed Abatement Section mails, in late September, the annual *Notice to Destroy Seasonal and Recurrent Weeds* (Appendix C) to all owners of parcels on the weed abatement list. Included in this mailing is a response card that those property owners who intend to maintain their own properties fill out and mail back to the SJFD. In October, the City Council holds a public hearing to hear objections to the Program. The SJFD mails property owners a *Courtesy Reminder Notice* in January reminding them of their responsibility to abate weeds.

The SJFD color-codes assessor parcel maps to show the work which needs to be done. If owners indicate through their response cards that they plan to maintain their property themselves, the SJFD marks its maps to indicate that the parcel should be taken off the spray schedule. The SJFD prepares these color-coded maps in triplicate -- one copy for the Contractor, a second copy for SJFD field inspectors, and a third copy for SJFD office use.

The regular weed abatement process includes spraying during the winter to keep new growth to a minimum. This is followed by disking in the spring to clear the parcels. Those parcels the Contractor cannot disk may need to be cleared by hand. Sometimes the Contractor needs to clear fire breaks around larger parcels.

The Contractor begins spraying on December 1. About three weeks later, the SJFD inspects all the properties that the Contractor sprayed. Beginning February 1, the Contractor sprays the properties a second time. A round of SJFD inspections also follows the second spraying. If owners do not clear their properties before March, the SJFD includes these properties in its disking schedule. The Contractor disks properties twice -- once in March and a second time in May. SJFD inspections follow each disking.

After receiving the final billing from the Contractor in July and completing all inspections, the SJFD determines property owner charges for weed abatement and submits these charges to the City Council for approval. City Council-approved charges are then added to the owners' property tax bills. Final charges are based on Contractor cost plus an administrative charge.

Owners, whose weeds the Contractor did not abate, are not charged for SJFD inspections.

Prices for the Contractor's work are based on square footage and type of work performed. For example, according to the 1991 Weed Abatement Price List (Appendix D), the Contractor's charge for disking and spraying a 6,000-square foot lot is \$101.63. Adding a 220 percent administrative fee, the City of San José would then assess the owner \$325.22, or 320 percent of the Contractor's charge ($\$101.63 \times 320\%$).

SCOPE AND METHODOLOGY

We reviewed the SJFD's Weed Abatement Program for efficiency and effectiveness. We also reviewed Program staffing, workload, and abatement costs. During our audit, we interviewed Program personnel and their supervisors, reviewed procedures manuals and information files, and observed daily operations. We analyzed a statistical sample of weed abatement parcels to determine whether inspections were performed as required and to assess the accuracy of weed abatement charges.

We conducted interviews in several other City of San José departments to assess their interaction with the Program and to determine if the Program duplicates what those departments do. We also surveyed seven northern California cities (Fresno, Sacramento, Santa Clara, Hayward, Fremont, Milpitas, Morgan Hill) and Santa Clara County and obtained information about their weed abatement programs. Our survey indicated that San José's Program is similar to those in the jurisdictions we surveyed.

To assess the effectiveness of property owner notifications, we reviewed the Program's files. We determined that less than 4 percent of private owners disputed their assessments. We also determined that the number of undeliverable notices is extremely low.

We compared expected to actual Program revenues, including weed abatement transactions in the Special Assessment Special Services Fund (Fund 350) for the past three years. We reviewed the bid that the Contractor submitted and compared the actual work the Contractor performed to the bid specifications. In addition, we reviewed the Program's processing of Contractor payments and property owner assessments. We also evaluated the

accuracy of the SJFD's cost recovery projections and compared San José's fee structure with other jurisdictions' fee structures.

Finally, we reviewed grass fire statistics and weed abatement parcel listings and analyzed the effect that City-owned parcels have on Program operations. We used this information to assess ways for the SJFD to cut workload, improve staff efficiency, and increase Program effectiveness.

FINDING I

CONSOLIDATING THE CITY OF SAN JOSÉ'S WEED ABATEMENT PROGRAM WITH SANTA CLARA COUNTY'S PROGRAM WILL IMPROVE PROGRAM EFFICIENCY AND SAVE SAN JOSÉ PROPERTY OWNERS ABOUT \$91,000 PER YEAR WITHOUT DIMINISHING PROGRAM EFFECTIVENESS

The Weed Abatement Section of the San José Fire Department (SJFD) is charged with inspecting and abating hazardous vegetation on vacant land within San José's city limits. During 1989-90, the SJFD maintained a listing of 1,361 vacant parcels within the city limits and contracted for removal of hazardous weeds on 695 parcels. Our review of SJFD procedures and files revealed that the Weed Abatement Program (Program) operates in general compliance with Municipal Code Chapter 9.12 regarding the abatement of weeds. However, our audit of the Program also revealed that:

- The SJFD did not monitor weed abatement revenues and expenditures in the Special Assessment Special Services Fund (Fund);
- Over a three-year period, the SJFD did not process \$156,000 in reimbursements from City departments for weed abatement work;
- Administrative fees on some parcels do not cover inspection costs;
- Almost half of the Contractor's work was on City-owned parcels for which an administrative fee is not paid;
- The Program carries high overhead costs;
- The SJFD may be able to cut workload by delaying the beginning of the annual weed abatement schedule;
- The SJFD did not publicize weed abatement standards;

- SJFD procedures do not address the problem of abating weeds on fenced parcels;
- The procurement of weed abatement services needs improving;
- The Program did not have routine procedures for following up on all grass fires to determine weed abatement status;
- Other public agency parcels were not inspected on a regular basis; and
- Light-duty firefighters spent at least 400 hours hand-coloring three sets of weed abatement maps.

During our audit we noted that the Santa Clara County Fire Marshal's Office (County) runs a weed abatement program that is comparable to the City of San José's Program. The County's program covers all county and unincorporated land, as well as nine cities within the county. Consolidating the City of San José's Program with the County's program should improve program efficiency without diminishing program effectiveness. Further, program consolidation should save San José property owners about \$91,000 per year. However, until such time as the City and County weed abatement programs are consolidated, the SJFD should improve its Program by:

- Monitoring weed abatement revenues and expenditures in the Fund;
- Re-analyzing costs, weed abatement fees, and cost recovery projections;
- More actively encouraging property owners to maintain their own property by publicizing abatement standards, establishing minimum fees, delaying the beginning of the annual weed abatement schedule, and encouraging City of San José departments to abate their own weeds;
- Bringing the procurement of weed abatement services into compliance with City of San José Municipal Code Section 4.13.030; and

- Considering other opportunities to improve program effectiveness.

The Weed Abatement Program

The Weed Abatement Section of the San José Fire Department's Bureau of Fire Prevention is responsible for enforcing Chapter 9.12 of the San José Municipal Code and the weed abatement contract specifications approved by the City Council. Chapter 9.12 states that:

"Weeds or refuse may be declared a public nuisance and may be abated, and the cost and expense of such abatement may be collected..."

According to the SJFD organization chart, the functions of the Weed Abatement Section are to:

- Abate hazardous vegetation on vacant land;
- Inspect all complaints of hazardous vegetation;
- Ensure that all violations are brought into compliance.

The SJFD contracts with a private vendor (Contractor) to clear weeds on vacant land that owners do not clear themselves. The City attempts to recover the cost of the Program by placing an assessment on the owner's property taxes. The charges that the City imposes on the property owners include the cost of the Contractor's work and administrative fees. The administrative fees are intended to cover the City's costs in administering the Program, as well as to encourage property owners to assume responsibility for the removal of weeds and rubbish on their vacant land. Our review of SJFD procedures and files revealed that the Program operates in general compliance with Municipal Code Chapter 9.12 regarding the abatement of weeds.

The City Council has directed that the Program be 100 percent cost recovery. However, in spite of significant increases in fees over the past three years and equally significant decreases in the Program's operating budget over the same period, the Program still operates at a loss. As TABLE I shows, the unrecovered operating costs of the Program for 1990-91 may be as high as \$67,000.

TABLE I
WEED ABATEMENT PROGRAM
NET UNRECOVERED OPERATING COSTS

<u>Fiscal Year</u>	<u>Revenues</u>	<u>Expenses</u>	<u>Net Program Loss</u>
1987-88	\$184,595	\$412,233	(\$227,638)
1988-89	206,021	341,174	(135,153)
1989-90	208,474	275,029	(66,555)
1990-91 ¹	241,000	308,233	(67,233)

Between 1987 and 1990, the SJFD's allocation of personal services to the Program declined 46 percent. As a result, the SJFD's cost per abated parcel dropped from \$414 in 1987-88 to \$232 in 1989-90 as shown in TABLE II.

¹ Estimated.

TABLE II
SUMMARY OF CONTRACTOR-ABATED PARCELS AND COSTS
PER ABATED PARCEL DURING 1987-88 THROUGH 1989-90

	Fiscal Years			
	<u>1987-88</u>	<u>1988-89</u>	<u>1989-90</u>	<u>Percent Change</u>
NUMBER OF CONTRACTOR-ABATED PARCELS				
Privately owned parcels	493	506	450	-9%
City-owned parcels	<u>223</u>	<u>243</u>	<u>245</u>	<u>+10%</u>
Total Contractor-abated parcels	<u>716</u>	<u>749</u>	<u>695</u>	<u>-3%</u>
COST PER CONTRACTOR-ABATED PARCEL				
Contractor costs per parcel	\$161	\$147	\$164	+2%
SJFD costs per parcel	<u>\$414</u>	<u>\$309</u>	<u>\$232</u>	<u>-44%</u>
Total abatement costs per parcel	<u>\$575</u>	<u>\$456</u>	<u>\$396</u>	<u>-31%</u>

According to SJFD officials, the drop in SJFD costs per parcel shown above was the result of reclassifying one position from a Fire Captain (sworn) to a Code Enforcement Inspector II (non-sworn) and a decision to not charge the Bureau of Fire Prevention when light-duty firefighters were assigned to it. From May through December 1990 alone, light-duty firefighters worked 1,000 hours in the Program -- an average of 125 hours per month.

**The SJFD Did Not Monitor Weed Abatement Revenues
And Expenditures In The Special Assessment Special Services Fund**

Operating expenses for the Program (personal services and non-personal costs) are included in the Bureau of Fire Prevention's General Fund budget. However, the SJFD processes through a Special Assessment Special Services Fund (Fund) the following transactions: 1) revenues from property

tax assessments, 2) other City of San José department reimbursements, 3) payments to the Contractor, and 4) refunds for erroneous weed abatement charges. Any excess weed abatement revenues in the Fund are transferred to the General Fund at the end of the fiscal year.

Our review revealed that the SJFD did not prepare regular weed abatement revenue and expenditure reports on the status of the Fund. As a result, the SJFD did not detect some errors. For example, the *1990-1991 Proposed Fees and Charges Report* underestimated both Program costs and revenues. The projected Program deficit that was reported as \$59,000 should have been \$67,000. This evidences the need for accurate revenue and expenditure reports which can be used as a basis for cost and revenue projections.

In addition, the SJFD was unaware of actual Program revenues because it did not prepare weed abatement revenue and expenditure reports for the Fund. For example, no one in the SJFD compared the total property tax distributions for weed abatement (which the Finance Department receives and processes) to the total dollar amount of assessments the City Council authorizes. As a result, the only way the SJFD would have detected a significant drop in Program revenues would have been if the Fund did not have enough money to cover expenses.

We also found that Program personnel did not receive a copy of the final tax roll transmittal letter. As a result, the SJFD could not confirm the accuracy of final tax roll assessments. The City of San José Finance Department is responsible for delivering the assessment listing to the Santa Clara County Tax Collector's Office for inclusion on the tax rolls. In our opinion, the SJFD should request a copy of the tax roll transmittal letter the Finance Department prepares in order to facilitate the SJFD in tracking revenues against assessments.

**Over A Three-Year Period, \$156,000
In Expected Reimbursements From City Departments
For Weed Abatement Work Were Not Processed**

Our review of the Special Assessment Special Fund transactions also revealed that various City of San José departments have not reimbursed the Fund for the last three years. Program personnel apparently had not noticed this oversight. Thus, out of the \$157,045 City departments owed for weed abatement on City-owned parcels, only \$845 was paid or transferred to the Fund. As a result, funds which should have been transferred from various capital funds to the General Fund were not.

Because the SJFD did not monitor the Fund, it did not detect that other City of San José departments were not transferring funds as they should. Ironically: 1) these City departments had budgeted the funds for weed abatement on undeveloped city parcels; 2) the SJFD had sent memos to the departments regarding the final charges against their parcels; and 3) the departments verified that the charges were correct. However, because no one was given the responsibility for entering the charges into the City's Financial Management System, the actual fund transfers were never made. Only the Redevelopment Agency, which has a separate accounting system, paid its \$845 in weed abatement charges.

Most of those non-transferred funds were budgeted in the various capital budgets. For example, Recreation, Parks and Community Services (RPCS), the City's largest user of weed abatement services, had \$138,000 set aside for weed abatement in its last three capital budgets, but the monies were never transferred to the Fund.

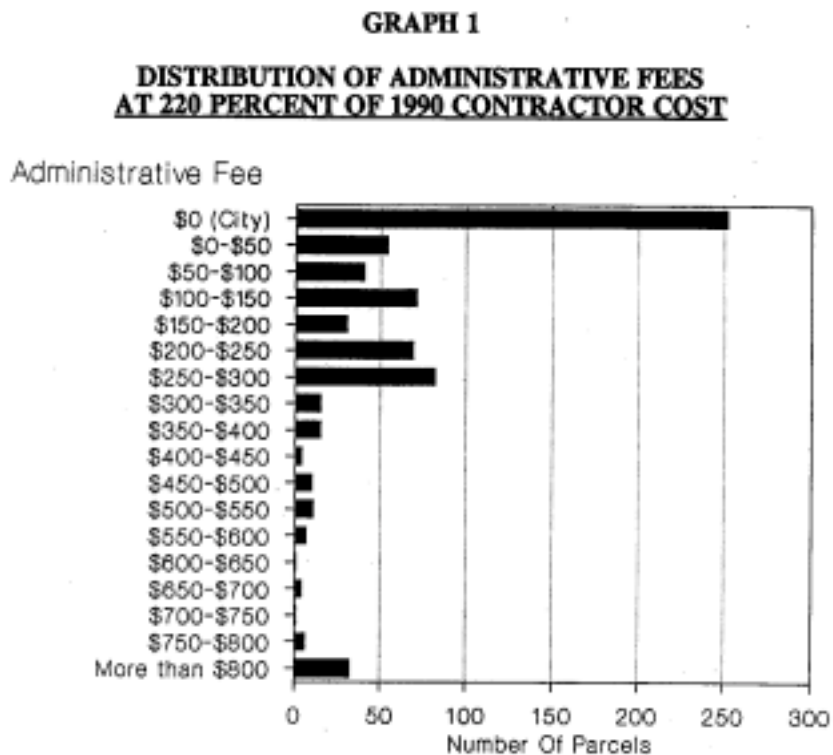
Administrative Fees On Some Parcels Do Not Cover Inspection Costs

Our review of administrative fees revealed inequities in the weed abatement fee structure. Specifically, fees for some parcels are too low to cover inspection costs. Conversely, because administrative fees are charged as a percentage of Contractor's cost, the administrative fees for other parcels may be disproportionately high. For example, if the Contractor's charge for spraying a parcel is \$10, the property owner will be assessed \$32 (\$10 plus a \$22 administrative fee). However, if the Contractor's charge is \$1,000, the property owner will be assessed \$3,200 (\$1,000 plus a \$2,200 administrative fee). The inequity here lies in the fact that both properties will require several SJFD on-site inspections. While it may take SJFD personnel longer to inspect the larger parcel, whatever SJFD inspection time difference there may be does not justify the enormous difference in administrative fees.

In the last few years, the City Council has approved significant increases in Program administrative fees -- from 100 percent of Contractor cost in 1987 to 220 percent of Contractor cost in 1991. These administrative fees are intended to not only cover the SJFD's cost to run the Program but to be prohibitive enough to encourage property owners to remove weeds on their own property. However, despite these large administrative fee increases, owners of very small parcels may still not be encouraged to abate their own weeds. For example, under the Program's new fee schedule, a property owner with a 50-foot parking strip would be assessed only \$7.50 for the Contractor to spray the strip twice. In this case, the Contractor cost would be \$2.35, and the SJFD's administrative fee would be only \$5.15. When one considers that the SJFD would have to inspect this property two to three times, a \$5.15 administrative fee is clearly insufficient. Ironically, owners of small parcels may actually use the Program simply because it is the cheapest way for them to maintain their property.

As a result, in spite of 220 percent SJFD administrative fees, some property owners do not carry their fair share of Program costs. For example, in 1990, of 450 private parcels in the Program, 60 parcels had weed abatement assessments of less than \$85. These 60 parcels probably required at least 120 SJFD on-site inspections. Since the Bureau of Fire Prevention's standard fire inspection fee is \$85 per hour with a 1-hour minimum, the assessment fee for each of these 60 parcels did not even pay for one SJFD inspection.

GRAPH 1 displays the distribution of administrative fees for the Program parcels on which the Contractor abated weeds. GRAPH 1 shows that most of the parcels in the Program appear to be relatively small. In our opinion, to ensure that the assessments for these parcels at least cover the cost of SJFD inspections, the SJFD should consider imposing a minimum fee to cover the cost of the inspections. Such minimum fees would not only generate additional revenues, but also encourage the owners of small parcels to abate their own weeds.

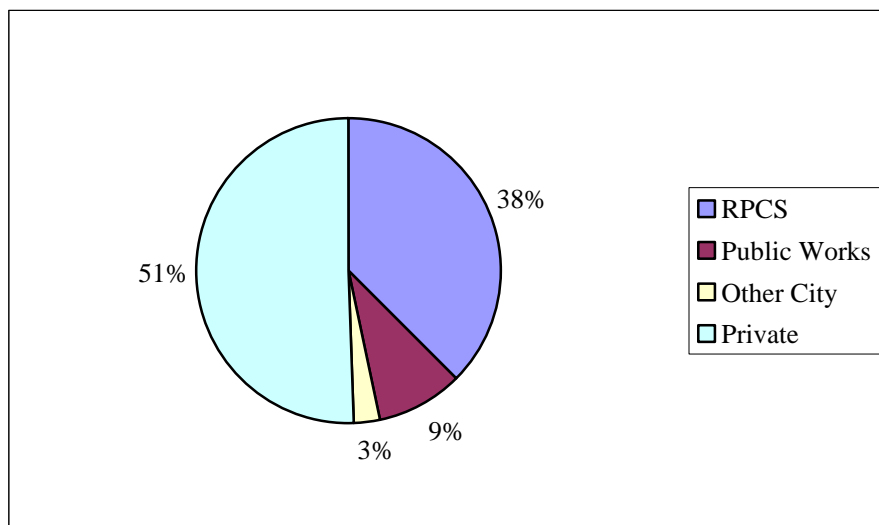


**Almost Half The Contractor's Work Was On City-owned Parcels
For Which An Administrative Fee Is Not Paid**

A substantial portion of Program resources are devoted to overseeing the Contractor's work on City-owned parcels. As Graph 2 shows, these parcels constituted 49 percent (\$55,803) of the Contractor's billings in 1990. RPCS alone accounted for 38 percent (\$42,900) of the Contractor's billings, and Public Works accounted for 9 percent (\$9,792).

GRAPH 2

**CITY CONTRACTOR'S ABATEMENT WORK
DURING THE 1990 WEED ABATEMENT SEASON**



The SJFD bills City of San José departments for only the Program Contractor's cost to abate weeds and not for the Program's administrative costs. By not charging City-owned parcels for Program administration, the current fee structure, in effect, requires private property owners to subsidize the maintenance of City properties. According to the 1990-1991 Proposed Fees and Charges Report, "... unrecovered costs are those for City properties where the current policy is to charge only the cost of the contract weed clearance activities."

We estimate that if the SJFD billed Program administrative costs to other City departments, an administrative fee of 173 percent of contractor costs (instead of 220 percent) would be sufficient to achieve cost recovery at current expense levels. Moreover, to the extent that it does not break even, charging other departments for administrative costs would reduce the SJFD's budgetary exposure. In addition, other departments would have a clearer picture of actual maintenance costs if they had to reimburse the SJFD for administrative costs.

Finally, because City of San José departments do not feel the impact of increasing Program administrative fees, they continue to rely on the Program to maintain their properties. Since almost half of the Contractor's abatement work is on City of San José property, SJFD inspectors' workloads are increased accordingly. By shifting the burden for maintaining City-owned parcels back to the owning departments, the number of SJFD inspections would be dramatically reduced.

It should be noted that some City departments already do their own weed abatement work themselves or contract for weed abatement services through the Purchasing Division. Furthermore, the San José Conservation Corps does some weed abatement work for the City of San José and has indicated it is interested in doing additional manual weed abatement work for the City.

The Program Carries High Administrative Costs

Our review revealed that while the Program will directly employ only 1.33 full-time equivalent (FTE) employees in 1990-91, the SJFD will charge a total of 2.83 FTEs to the Program. These personal services costs are summarized in TABLE III.

TABLE III
SUMMARY OF SJFD WEED ABATEMENT PROGRAM
BUDGET POSITIONS FOR 1990-91

DIRECT COSTS:

	<u>FTE</u>	<u>COSTS</u>
Contractor's Cost		\$114,000
Code Enforcement Inspector II	0.33 ²	23,333 ³
Firefighter	1.00	75,700 ³
Overtime	<u> </u>	<u>7,100</u>
TOTALS	1.33	\$220,133

INDIRECT COSTS:

Deputy Chief	0.10	
Battalion Chief	0.20	
Typist Clerk II	1.00	
Principal Clerk	<u>0.20</u>	
TOTALS	<u>1.50</u>	<u>\$88,100³</u>
TOTAL PROGRAM COSTS	<u>2.83</u>	<u>\$308,233</u>

Source: SJFD

The \$88,100 in other positions shown above may be excessive. For example, while one-fifth of the Battalion Chief's time and one-tenth of the Deputy Chief's time are charged to the Program, there is no documentation to support that these employees actually devote that much time to the Program. Furthermore, during the course of our audit we saw no evidence that a full-time Typist Clerk was working on the Program. This supervisory and administrative overhead added \$88,100 to the Program's budget. In our opinion, the SJFD should reduce its allocation of supervisory and administrative overhead to the Program to include only actual SJFD personnel time spent on the Program.

² Vacant position since November 1990.

³ Costs include salary plus 32% overhead and fringe.

**The SJFD May Be Able To Cut Workload
By Delaying The Beginning
Of The Annual Weed Abatement Schedule**

The Program begins its spray phase in December. The Contractor sprays approximately 500 properties a year as a means of preventative abatement. To keep parcels clear of weeds year round, the SJFD has established a combination spray and disk schedule whereby parcels are sprayed twice (in December and February) and disked twice (in March and May). According to Program personnel, chemical controls applied during the growing season are useful to avoid handwork later on. However, this process can require Program personnel to inspect each parcel as many as five times.

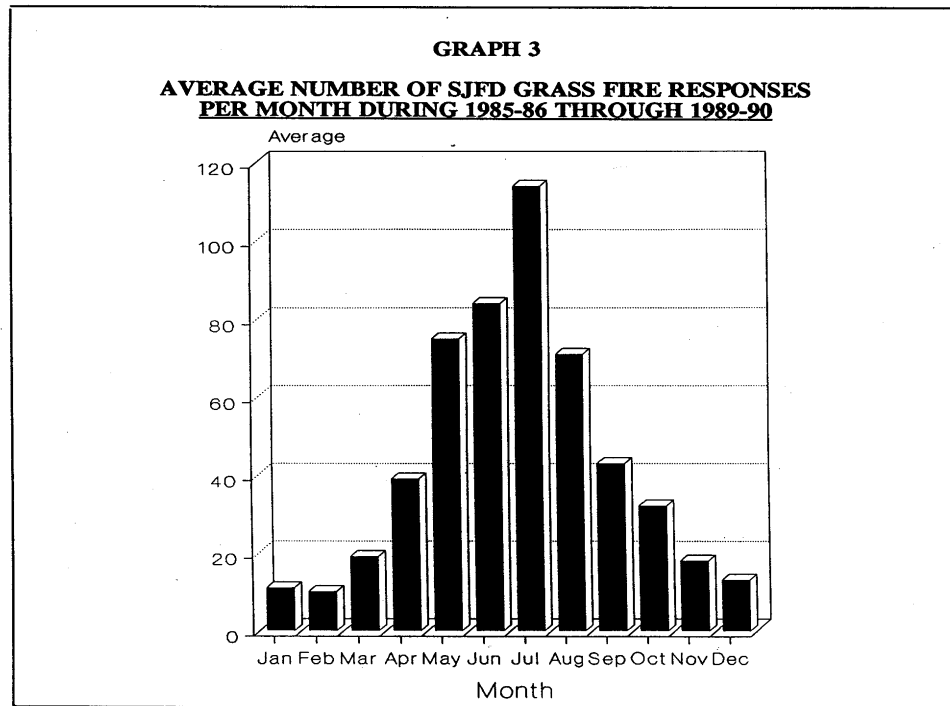
Furthermore, because the spray phase of the program begins so early in the growing season, property owners are sometimes caught unawares. For example, one property owner complained:

“I always have removed the weeds on my own. I do not know when your city contractors come out, but I do not want them out there. I will not pay them! I will remove them (the weeds) on my own time!”.

And another wrote:

“Why should my property be automatically abated if I keep everything clean.”

While weed abatement work needs to be done before the fire season starts, it may not require a year-round program. As shown in GRAPH 3, the average number of SJFD grass fire responses per month during the last four fiscal years were highest during the months of May through August.



Given the average SJFD monthly grass fire responses shown above, the necessity of December and February sprayings is arguable. In fact, we found that several other jurisdictions skip the spray phase entirely and are still able to meet their weed abatement goals. The cities of Fresno and Morgan Hill, for example, do not send out their abatement notices until February, and the property owners have approximately two months to clean up their weeds. If the property owners neglect to abate their weeds, the Contractor begins disking in mid-April, when the weeds are tall.

Furthermore, those jurisdictions that operate under the provisions of the California Government Code restrict their weed abatement spray phase to properties with demonstrated weed problems. Specifically, the California Government Code authorizes preventative abatement using chemical controls only on those properties for which the jurisdiction had to abate weeds during the previous germinating season.

The SJFD could eliminate 1,000 weed abatement inspections each year by skipping the spray phase at the beginning of the abatement cycle. Program personnel estimate that each year they do at least 3,400 inspections following various weed abatement phases as shown in TABLE IV below.

TABLE IV

ANNUAL SJFD WEED ABATEMENT INSPECTIONS

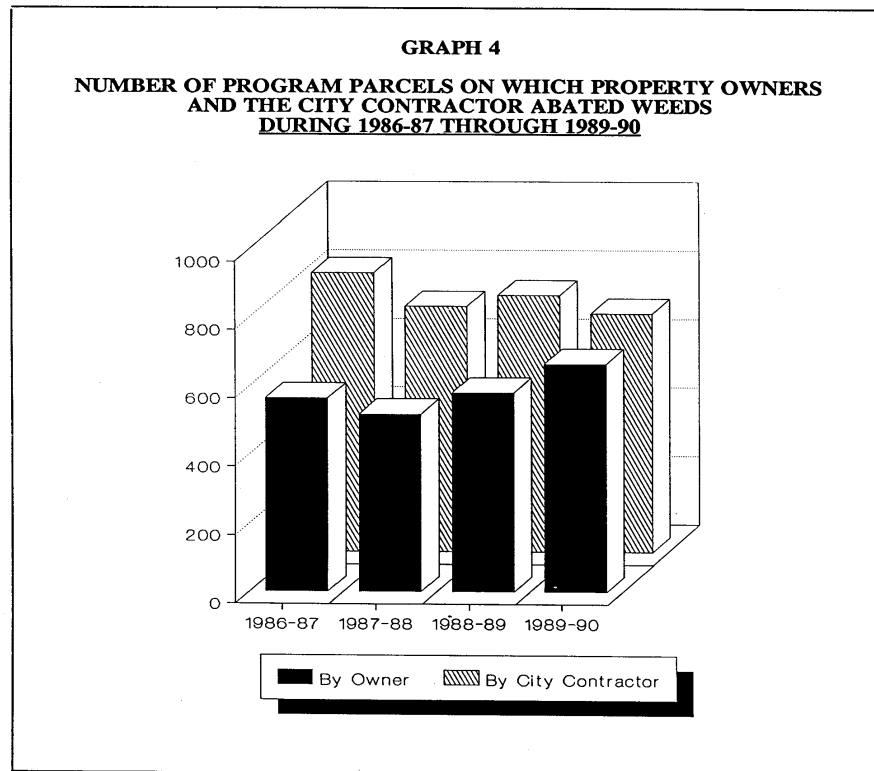
<u>Weed Abatement Phases</u>	<u>Number of Inspections Following Each Phase</u>
First spray	500
Second spray	500
First disk	1,200
Second disk	<u>1,200</u>
TOTAL INSPECTIONS	<u>3,400</u>

The two spray phases shown in TABLE IV add up to 1,000 inspections to the Program's annual workload. Eliminating these spray phases would reduce the number of SJFD multiple inspections of the same parcels by about 1,000. Moreover, to the extent that property owners abate weeds on their own parcels from December to April, the number of SJFD inspections would be further reduced.

It should be noted that if the spray phases were eliminated and property owners still did not abate the weeds on their parcels, then the required alternative would be hand-clearing the parcels. This alternative could prove to be costly for property owners because it costs much more to hand-clear a parcel than to spray it. Furthermore, any reduction in inspections from eliminating the spray phase could be offset to the extent inspections are required to monitor the hand-clearing work.

The SJFD Should Publicize Weed Abatement Standards

Our review of the Program found that in spite of SJFD efforts to encourage property owners to abate their own weeds, the Contractor still abates weeds on more parcels than do property owners. GRAPH 4 shows the number of Program parcels on which owners and the Contractor abated weeds during 1986-87 through 1989-90.



Part of the reason why property owners fail to maintain their own properties may be that the Program does not provide property owners with written weed abatement standards. The San José Fire Code sets certain minimum weed abatement standards. However, abatement standards are not detailed in the notifications that the SJFD mails to property owners, nor does the SJFD provide property owners with any other public information regarding weed abatement standards. As a result, property owners may not abate their weeds adequately because they are not fully aware of weed abatement requirements.

Furthermore, specific weed abatement standards are not included in the Program's operations manual and are, therefore, not available to Program personnel when property owners telephone and ask questions about weed abatement standards.

We surveyed other jurisdictions regarding the type of weed abatement information that they provide. We learned that the City of Fresno not only prints specific abatement standards on the back of their notices (including allowable clearances around buildings and fences and allowable heights of vegetation), they also warn owners of vacant parcels that they will be liable for firefighting expenses if they allow a fire hazard to continue after the prescribed deadline. The Fresno Municipal Code section, which is printed on their annual weed abatement notice, reads as follows:

“Any person who, after written notification by the Fire Marshal, or his authorized representative, causes, permits, or allows the existence of a fire hazard as defined by the Code is liable for the expense of fighting a fire, determined by the Fire Marshal to have been caused by said fire hazard and such expense shall be a charge against that person. Such charge shall constitute a debt of such person, and is collectible by the City in the same manner as in the case of an obligation under a contract, expressed or implied.”

This type of notification makes property owner responsibilities very clear.

SJFD Procedures Do Not Address The Problem Of Abating Weeds On Fenced Parcels

Recent court decisions on abatement of nuisances on private property indicate that warrants may be needed where the owner has a reasonable expectation of privacy. Specifically, abatement without warrants or consent on fenced, private property may be a problem. The Program currently has no procedures in place that deal specifically with fenced parcels. The SJFD should obtain the City Attorney's opinion regarding the applicability of these decisions (specifically Connor v Santa Ana) to weed abatement in the City of San José. The SJFD should modify its procedures if the City Attorney indicates they should.

The Procurement Of Weed Abatement Services Needs Improving

The City of San José Municipal Code provides for general services contracts in Chapter 4.13. The weed abatement contract falls into this category. According to Section 4.13.030:

“Unless otherwise provided in this code, the director of general services shall be responsible for the providing of general services for the city.”

In spite of Section 4.13.030, the SJFD has historically handled the procurement of weed abatement services without the involvement of the Director of General Services. Further, our review revealed that only one contractor bid the 1986 weed abatement contract and only two contractors bid the 1989 contract. In light of recent low levels of contractor response, the SJFD should let the Purchasing Division within the General Services Department procure weed abatement services. Specifically, the SJFD should

prepare work specifications and then turn the procurement process over to the Purchasing Division in compliance with Municipal Code Section 4.13.030.

SJFD Specifications May Discourage Some Contractors

Our review also revealed that the SJFD has consistently overstated the number of acres needing weed abating in its bid specifications. For example, the SJFD's specifications for the 1990 season was for weed abatement of approximately 1,500 acres. However, actual work for the 1990 season was only about 860 acres -- approximately one-half the work the SJFD specified. In our opinion, exaggerating the size of the contract may discourage smaller contractors from bidding on the weed abatement contract.

We also found that the SJFD specified much more spraying work than was needed in its specifications. For example, in 1990, only 34 percent of the spraying work the SJFD specified was actually ordered. This is significant because spray work requires a state license and, according to the Contractor, "mega-insurance". Thus, by overstating the spraying work in its specifications, the SJFD may have caused some contractors to not bid on the contract.

Annual Cost Of Living Adjustments Were Miscalculated

The weed abatement contract allows an annual cost of living adjustment to the Contractor's price list for weed abatement. However, we found errors in the annual Consumer Price Index (CPI) adjustments to the Contractor's approved price list. Specifically, small errors in the adjustments resulted from using the wrong index for the wrong month with the wrong

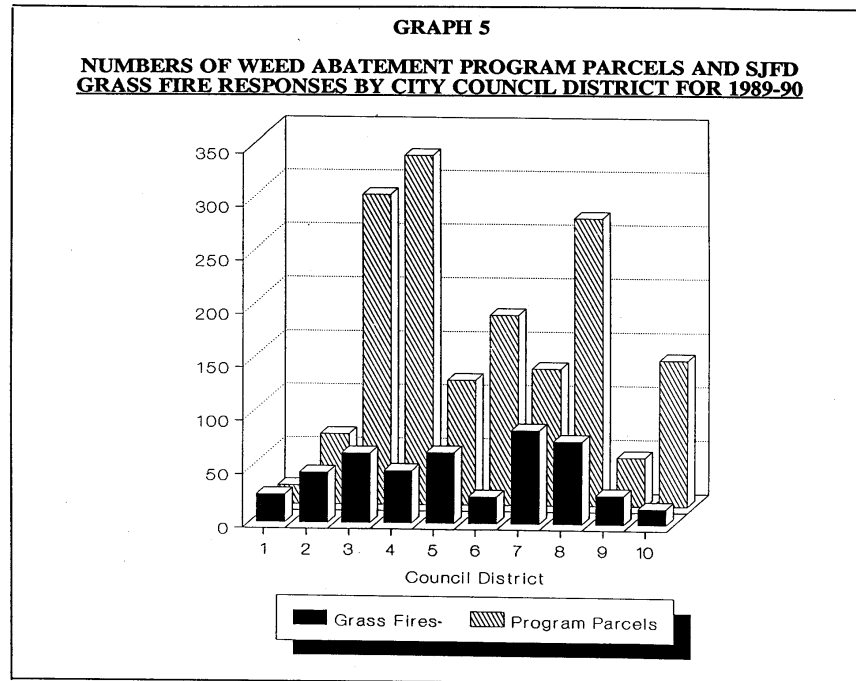
calculation. Thus, one price list showed an error of 0.2 percent and another showed an error of 0.8 percent.

Although the price list resulted in a cumulative error of only \$1,500, these problems taken together indicate a need for closer coordination between Program personnel, the Bureau of Fire Prevention's staff analyst, and the City of San José's Purchasing Department.

The Program Did Not Have Routine Procedures For Following Up On All Grass Fires To Determine Weed Abatement Status

The SJFD responds to about 500 grass fires each year. In 1989-90, 16 percent of all SJFD fire responses were for grass or brush fires. Clearly, reducing the number of grass fires would be beneficial in terms of:

1) reducing chances for injury and damage, 2) reducing wear and tear on SJFD vehicles and equipment, and 3) freeing SJFD equipment and personnel for other uses. Furthermore, as GRAPH 5 shows, grass fires occur in all City Council Districts.



GRAPH 5 points to the importance of grass fire prevention activities even in an urban setting and the need to follow up on all grass fires to determine whether the locations of the fires are or should be in the Program. However, our review revealed that the SJFD does not routinely follow up on grass fire locations to determine whether the locations of the fires are or should be in the Program's list of parcels. In our opinion, the SJFD should inspect all grass fire locations in San José's jurisdiction and make sure the involved parcels are included in the Program's list of parcels needing weed abatement when they fall within the criteria for inclusion in the Program (i.e. bare land within the city limits).

Other Public Agency Parcels Were Not Inspected On A Regular Basis

The Weed Abatement Master List does not include vacant parcels other public agencies own. According to the SJFD, these parcels are excluded from the Program because they cannot be billed through the property tax collection system. Thus, Southern Pacific, CalTrans, and Santa Clara Valley Water District properties, for example, are not in the Program, and the SJFD does not inspect them on a regular basis. However, our review revealed that in 1989-90 at least 10 percent of the SJFD's grass fire responses were along properties such as freeways, expressways, and creeks that public agencies may own. In our opinion, the danger from grass fires in these public properties can be reduced if the SJFD includes them in the Program, notifies the public agency to abate weeds on their property, and routinely inspects the property.

Light-Duty Firefighters Spent At Least 400 Hours Hand-Coloring Three Sets Of Weed Abatement Maps

The Program prepares three sets of assessor maps: a Contractor copy, field inspection copy, and an office copy. These maps are color-coded to show work specifications for all parcels in the Program. The SJFD assigns light-duty firefighters (firefighters who are recuperating from injuries or who are otherwise unable to perform regular firefighting duties) to hand-color assessor maps. We estimate that light-duty firefighters may have taken up to 400 hours to prepare and hand-color these assessor maps. Even though the cost for these light-duty firefighters was not charged to the Program, we estimate that more than \$10,000 in SJFD staff time is annually devoted to hand-coloring assessor maps.

The assessor maps the light-duty firefighters hand-produce could be produced on the City's computerized mapping system -- Intergraph. In fact, the SJFD already uses Intergraph to produce its response maps. It should be noted that some SJFD staff time would be needed to code information into Intergraph. In addition, the Department of Public Works would charge the SJFD \$1,942 to \$3,885 to print the 1,750 maps the Program uses. However, these initial costs are relatively small compared to the SJFD personnel costs spent hand-coloring weed abatement maps each year.

Santa Clara County's Weed Abatement Program

The Santa Clara County Fire Marshal's Office (County) runs a weed abatement program that is comparable to the City of San José's Program. The County's program covers all county and unincorporated land, as well as nine jurisdictions within the county including: Campbell, Cupertino, Los Gatos, Milpitas, Monte Sereno, Mountain View, Palo Alto, Santa Clara, and Saratoga. Cities that have their own weed abatement programs include: San José, Gilroy, Morgan Hill, Los Altos, and Sunnyvale.

The County program prepares property owner notifications, investigates citizen complaints, inspects properties, supervises abatement work by a County contractor, and processes bills and assessments. The County recovers its program expenses through administrative fees that property owners pay when their weeds are abated. Currently, the County does not charge direct costs to local jurisdictions. There is, however, a 25 percent administrative fee for abatement work on city-owned parcels.

Consolidation Of The City of San José And Santa Clara County Weed Abatement Programs

In our opinion, based on services provided and potential cost savings, the weed abatement programs of the City of San José and Santa Clara County should be consolidated. Not only would it be more efficient to run one weed abatement program County-wide than to run two parallel programs, but Santa Clara County officials have expressed an interest in taking over weed abatement responsibilities for parcels within the City of San José.

In coordinating weed abatement functions with Santa Clara County, the SJFD can continue to meet its mission and at the same time improve the efficiency of its operations. This is significant in view of the SJFD's mission, which is:

“To prevent fires from occurring and, when fires and other life threatening incidents do occur, to utilize resources effectively and efficiently to protect life and minimize property damage.” (Emphasis added)

Chapter 9.12 of the City of San José Municipal Code delegates responsibility for weed abatement to the Fire Chief. If the City and County programs were consolidated, the Fire Chief would have to delegate some of his weed abatement responsibilities to the County program.

Neighboring Jurisdictions Have Joined With Santa Clara County

According to fire officials in neighboring jurisdictions, the County program, once established, requires very little oversight on their part. These jurisdictions, for example, refer citizen weed abatement complaints directly to the County inspectors. Based upon discussions we had with the fire officials in neighboring jurisdictions, we believe the City of San José would benefit by consolidating its Program with the County's program.

Economy Of Scale

Although the City of San José and Santa Clara County are running almost duplicate programs, the County's program shows the greater economy of scale. Specifically, the County has three full-time positions in weed abatement to oversee the abatement of the 8,000 parcels on their master list. In comparison, San José has two full-time positions to oversee the abatement of the 1,400 parcels on the City's list.

In addition, at the County's reduced fee rate, we estimate administrative fees for weed abatement work in San José in 1990 would have been \$52,000. When this is compared to the nearly \$200,000 in SJFD administrative costs for 1990-91, the County's economy of scale is again apparent.

Potential Cost Savings

City of San José property owners could realize about \$91,000 per year in savings from consolidating the City of San José's and Santa Clara County's programs. Under the County's program, administrative fees for weed

abatement on private parcels would be reduced from the City's 220 percent of Contractor cost to 65 percent of Contractor cost. Thus, we estimate that the County's lower administrative fees would save the City of San José's private property owners as much as \$91,000.

While it is clear that consolidating the Program with the County's program will save money for San José property owners, it is not as clear what effect such a consolidation would have on the SJFD's operating budget or City of San José revenues. For example, the SJFD estimates the following regarding the Program in 1991-92:

REVENUES

San José Property Owners	\$203,500
City Departments	<u>56,300</u>
Total Revenues	\$259,800

EXPENSES

Direct Costs	
Contractor's Costs	\$119,900
Firefighter	77,500
Overtime	<u>7,100</u>
Total Direct Costs	\$204,500
Indirect Costs	<u>\$100,500</u>
Total Expenses	<u>\$305,000</u>
Net Program Gain (Loss)	<u>\$(45,200)</u>

As shown above, overall the SJFD projects the Program will lose \$45,200 in 1991-92. However, if only direct Program expenses are considered, the Program would make \$55,300 in 1991-92 (\$259,800 less \$204,500).

Further, complicating the picture is the fact that the \$55,300 profit in the preceding scenario is due entirely to the \$56,300 that other City departments are projected to pay to the Program. In other words, if you consider only: 1) the \$203,500 private property owners are projected to pay to the Program in 1991-92, and 2) the \$204,500 in projected direct Program costs, then consolidating the Program with the County's program would have no overall fiscal effect on the City. The only possible exception to this conclusion would be the 25 percent administrative fee the County would charge City departments to abate their weeds. We estimate that City departments would pay \$14,000 per year more to have the County abate their weeds than if the SJFD abated their weeds.⁴ It should be noted, however, that City departments could either do their own weed abatement or make other arrangements and not pay the County anything.

Division Of Responsibility

The City of San José's Program is already under way for the 1991 growing season and will continue through 1991. Therefore, consolidation of the City of San José and Santa Clara County programs will not be feasible during the current abatement season. However, the County may be able to pick up San José parcels as early as the fall of 1991 for abatement in the 1992 growing season. Depending on the swiftness of program consolidation, we estimate that the SJFD could dramatically reduce its Program budget for 1991-92, and phase it out completely in 1992-93.

In addition, Program use of the Fund would no longer be necessary after all outstanding property tax assessments are received. This would relieve the SJFD of the responsibility of processing property tax assessments,

⁴ This assumes the Contractor's costs would be the same under both the SJFD's and the County's program.

distributions, or departmental reimbursements through the Fund. In addition, the County would procure weed abatement services, monitor contractor performance, make contractor payments, and pay refunds to private property owners.

Liaison

Although the SJFD would be able to phase out the Weed Abatement Section and reassign current staff, the SJFD would still need a liaison to work with County weed abatement officials and handle some administrative tasks. For example, although the County program would handle most routine tasks, San José City Council resolutions declaring weeds a nuisance and approving assessments would still be required. The SJFD liaison would be responsible for getting the resolutions approved.

Furthermore, once freed of the necessity to coordinate day-to-day weed abatement contract work, a liaison within the SJFD might be able to take a more pro-active approach to the prevention of grass fires. This could include following up on the weed abatement status of grass fires, as well as identifying and inspecting other high-risk parcels.

The SJFD's Weed Abatement Program Should Be Improved Absent Consolidation With Santa Clara County's Program

Should the Santa Clara County and City of San José programs not be consolidated, improvements should be made in San José's Program. This is a difficult option because the City's 1990-91 hiring freeze has resulted in an unfilled vacancy in the Program. Without that position being filled, the one remaining staff person assigned to the Program will be hard pressed to operate it even at its current level, let alone at the level this report recommends.

In addition, the Program is under City Council direction to move toward a 100 percent cost recovery. Under the current fee structure, we estimate that the City would have to charge private owners 340 percent of Contractor's cost to achieve 100 percent cost recovery. The SJFD should examine ways to restructure fees and cut costs to avoid another substantial increase in fees. For example, the SJFD should consider:

- Charging City of San José departments administrative fees at the same rate that private property owners are charged;
- Imposing a minimum fee to cover the cost of inspections;
- Reducing the administrative overhead charged to the Program;
- Automating the mapping of weed abatement parcels; and
- Transferring the procurement of weed abatement services to the City's Purchasing Division.

The SJFD should also reduce its Program inspection workload by encouraging and facilitating private property owners' abatement of their own weeds, reducing or eliminating the weed abatement spraying schedule, and transferring weed abatement responsibilities to the City departments that own the properties on the weed abatement list.

Finally, the Program can be more pro-active in identifying parcels that should be in the Program but are not. Specifically, SJFD officials should investigate and determine the weed abatement status of all parcels where grass fires have occurred.

CONCLUSION

In spite of dramatic increases in administrative fees, the SJFD has not been able to recover all its operating costs for the Program. During our audit, we examined ways to cut Program costs, increase revenues, and cut Program workload without sacrificing Program effectiveness. Establishing minimum fees and clarifying private property owners' responsibilities will accelerate the process of getting owners to assume responsibility for abating weeds on their own properties. In addition, other Program efficiency and effectiveness improvements are needed. However, the best option appears to be consolidating the City of San José's Program with Santa Clara County's program. This consolidation will improve Program efficiency and save San José property owners about \$91,000 per year without diminishing Program effectiveness.

RECOMMENDATIONS

We recommend that the SJFD:

Recommendation #1:

Enter into negotiations with Santa Clara County to consolidate the City of San José's Weed Abatement Program with the County's program. (Priority 1)

Recommendation #2:

Develop and implement procedures to verify the weed abatement status of all grass fire locations. (Priority 3)

Furthermore, if the City of San José's Weed Abatement Program is not consolidated with Santa Clara County's program, we recommend that the SJFD:

Recommendation #3:

Request an opinion from the City Attorney's office regarding the need to obtain property owner consent or a judicial warrant before entering fenced, private property. Should the City Attorney opine that property owner consents or judicial warrants are necessary, the SJFD should revise its procedures accordingly. (Priority 2)

Recommendation #4:

Develop policies, procedures, and assign responsibility for monitoring weed abatement revenues and expenditures in the Special Assessment Special Services Fund. The SJFD should:

- Prepare periodic weed abatement revenue and expenditure reports for the Fund;
- Establish procedures for processing bills to City of San José departments for weed abatement work and for ensuring that the transactions are entered into the City's Financial Management System; and
- Review the Finance Department's tax roll transmittal letter to ensure that assessment information has been accurately transmitted. (Priority 3)

Recommendation #5:

Re-analyze cost, weed abatement fees, and cost recovery projections in order to achieve cost recovery. Specifically, the SJFD should:

- Revise the fee structure to include minimum charges and/or inspection fees;
- Charge administrative fees to departments for maintenance of City-owned properties; and
- Reduce its allocation of supervisory and administrative overhead charged to the Program to include only actual SJFD personnel time spent on the Program. (Priority 2)

Recommendation #6:

Encourage property owners to maintain their own property by:

- Preparing a written description of minimum weed abatement standards which can be included with the annual property owner notifications;
- Delaying the start of weed abatement by reducing or eliminating the spray phase of the program;
- Implementing a policy to make property owners who ignore written notification of hazardous weeds liable for the expense of fighting fires resulting from those hazards;
- Shifting responsibility for on-going weed abatement/maintenance work on City-owned properties back to the owning departments. (Priority 3)

Recommendation #7:

Transfer the procurement of weed abatement services to the Purchasing Division. The SJFD should work with the Purchasing Division to:

- Bring specifications in line with actual work performed;
- Consider procuring on-going maintenance work on City-owned parcels separately;
- Establish procedures and responsibility for making annual Consumer Price Index (CPI) adjustments to the Weed Abatement Price List. (Priority 2)

Recommendation #8:

Use the Intergraph mapping system to prepare the weed abatement maps.
(Priority 3)

Recommendation #9:

Include other publicly owned vacant parcels in the Program for notification and inspection purposes. (Priority 3)

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